

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT SAUNDERS,	§
	§ No. 19, 2012
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 89008879DI
	§
Plaintiff Below-	§
Appellee.	§

Submitted: May 14, 2012

Decided: June 1, 2012

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices

**ORDER**

This 1<sup>st</sup> day June 2012, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Robert Saunders, filed an appeal from the Superior Court’s January 3, 2012 order adopting the Superior Court Commissioner’s September 9, 2011 report, which recommended that his seventh motion for postconviction relief pursuant to Superior Court Criminal Rule 61 be denied<sup>1</sup> and the Superior Court’s January 4, 2012 order denying his request that the judge recuse himself. The plaintiff-appellee, the State of

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<sup>1</sup> Del. Code Ann. tit. 10, §512(b); Super. Ct. Crim. R. 62.

Delaware, has moved to affirm the Superior Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.<sup>2</sup> We agree and affirm.

(2) The record before us reflects that, in 1976, a Superior Court jury found Saunders guilty of Murder in the First Degree and related offenses. He was sentenced as a habitual offender to life in prison without the possibility of probation or parole. Saunders' convictions were affirmed by this Court on direct appeal.<sup>3</sup>

(3) In this appeal from the Superior Court's denial of his seventh motion for postconviction relief and its denial of his request for recusal, Saunders claims that a) the Superior Court abused its discretion when it denied his motion for postconviction relief; and b) there was a rational factual basis for the judge to disqualify himself.

(4) The record reflects that Saunders' claims of error at trial and ineffective assistance of counsel have been addressed, and rejected, by the Superior Court on a number of prior occasions. As such, they are procedurally barred as previously adjudicated.<sup>4</sup> Moreover, Saunders has

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<sup>2</sup> Supr. Ct. R. 25(a).

<sup>3</sup> *Saunders v. State*, 401 A.2d 629 (Del. 1979).

<sup>4</sup> Super. Ct. Crim. R. 61(i) (4).

provided no basis for any further review of those claims.<sup>5</sup> We, therefore, conclude that the Superior Court did not abuse its discretion when it denied Saunders' seventh postconviction motion and that Saunder's first claim is without merit.

(5) There is likewise no basis for recusal of the Superior Court judge. Saunders has provided no evidence that the judge was biased against him or that there was any impropriety in connection with the denial of his seventh postconviction motion.<sup>6</sup> We, therefore, conclude that Saunders' second claim also is without merit.

(6) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice

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<sup>5</sup> Id.

<sup>6</sup> *Los v. Los*, 595 A.2d 381, 384-85 (Del. 1991).